

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of the)	CC Docket No. 96-115
Telecommunications Act of 1996:)	
)	
Telecommunications Carriers' Use)	
of Customer Proprietary Network)	
Information and Other Customer Information;)	
)	
Implementation of the Non-Accounting)	CC Docket No. 96-149
Safeguards of Sections 271 and 272 of the)	
Communications Act of 1934, As Amended)	
)	
2000 Biennial Regulatory Review --)	
Review of Policies and Rules Concerning)	CC Docket No. 00-257
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

WORLDCOM REPLY COMMENTS

WorldCom, Inc. (WorldCom) respectfully submits these comments in response to initial comments filed pursuant to the Commission's Notice of Proposed Rulemaking (Notice), released on July 25, 2002, in the above referenced dockets.

Virtually all of the commenters agree that the Commission's rule should, as is consistent with section 222 of the Telecommunications Act of 1996, continue to allow carriers to transfer, without advanced customer approval, customer CPNI to the acquiring carrier in conjunction with the transfer of a customer-base.¹ CPNI is necessary for the transfer and maintenance of the customers' services. Consent, whether opt-in or opt-out,

is infeasible to obtain during a customer-base transfer. And, such use, disclosure or access is consistent with section 222 and current Commission rules.

The Electronic Privacy Information Center (EPIC) “. . . understand[s] that some disclosure [of CPNI without prior customer approval] may be necessary to prevent an interruption of customer’s service.”² But EPIC suggests that the transfer of CPNI, without advance customer approval, be limited to that CPNI that is deemed “necessary to maintain service.”³ It is noteworthy that EPIC fails to discuss what CPNI would be unnecessary to the acquiring carrier in maintaining the customers’ services. The acquiring carrier needs and should be provided all of a customer’s CPNI related to the service affected by the transfer. The acquiring carrier needs CPNI to send the customers the required advance notice of transfer, transfer the services, address customer inquiries, particularly those that may be related to the customer’s previous traffic or service offerings, etc. Some acquiring carriers may even be assuming the billing functions or complaint-handling functions of the exiting carrier. The transfer of CPNI as it relates to a customer-base transfer is consistent with customer expectations.

Moreover, particularly since the exiting carrier may be going out of business, the needed information may not be available to the acquiring carrier after the acquisition, even if the acquiring carrier were to subsequently obtain the customers’ consent. Furthermore, having different approval requirements for different types of CPNI is not consistent with section 222. The requirement for approval must be based on the use of the CPNI. As such, the acquiring carrier should be provided all of the customers CPNI

¹ See, Florida PSC, p. 3; EPIC, p. 6; SBC, pp.2-4; Sprint, pp. 4-6; USTA, pp. 4-5; AT&T, p. 3-7; AT&T Wireless, p.5-8; Verizon, p.5;

² EPIC, p. 6.

³ Id.

relevant to the affected services, without advance customer notice or approval being required, and permitted to use the information within the bounds of the Total Service Approach (TSA) as defined by statute and current Commission rules.

Some commenters suggest that the acquiring carrier be required to provide advance notice to customers of the fact that they have obtained the customer's CPNI in the advance customer acquisition notices.⁴ Yet, these commenters offer no purpose served by such advance notice. As most commenters point out, a notification requirement would be unnecessary and may cause customer confusion.⁵ It could not serve as opt-out notification. Beside such a requirement for approval being inconsistent with current Commission rules and section 222, the acquiring carrier would need the CPNI, and therefore any requisite approval, *prior* to sending out the customer acquisition notices since the notices address CPNI, e.g., the customer's presubscribed carrier and service information.⁶ So opt-out consent at that point would be after the fact, and meaningless.

A number of commenters suggest that the acquiring carrier be *permitted* to use the CPNI beyond the TSA based on the consent obtained by the previous carrier.⁷ Notwithstanding the Commission's decision on the permissibility of such reliance, acquiring carriers should be allowed to start fresh and seek their own consent. Depending on the exiting carrier at issue, an acquiring carrier may not be comfortable

⁴ See, Qwest, p. 18. See also, EPIC, p. 6. EPIC suggests a 30-day advance notice if the information is necessary to maintaining service, while suggesting opt-in approval for access to "unnecessary" information.

⁵ See, AT&T, p. 4; BellSouth, p. 3; Sprint, p. 5; SBC, p. 3; AT&T Wireless, p. 6.

⁶ At least one commenter suggests the exiting carrier provide notification. See, Florida Public Service Commission, p. 3. Requiring the exiting carrier to send out advance notices likewise serves no purpose, may cause consumer confusion, and would be costly. If the proposal is not just for a notice, but a form of opt-out approval, it would substantially delay the acquisition process or even disrupt negotiations, potentially leading to loss or disruption of customers' services. See Sprint, p. 5.

⁷ See, AT&T, p. 7; Nextel, p. 8.

relying on the records of that carrier and should not be precluded from seeking consent or “re-consent” under its own company policies.⁸ If, however, the Commission requires, or the acquiring carrier chooses to seek, “re-consent” for use beyond the TSA for purposes of customer acquisitions, the acquiring carrier should be permitted to use the advance acquisition notice to obtain opt-out approval for use for which such consent is sufficient under Commission rules. But this should not be a requirement since not all carriers share data internally, may still use opt-in for such uses, or would prefer to send a separate notification related to CPNI use.

IV. CONCLUSION

An acquiring carrier should be provide all CPNI related to all the services affected by the customer-base transfer, without prior customer notification and approval being obtained by either the exiting or acquiring carrier. The acquiring carrier should be permitted to use such CPNI in accordance section 222 and the Commission’s current rules related to the use of CPNI by a carrier without advance customer approval.

Respectfully submitted,

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⁸ See, Sprint, p. 6.

